

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:19-cv-00534-FDW-DSC

COLONY INSURANCE COMPANY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
BUCKEYE FIRE EQUIPMENT )  
COMPANY, )  
 )  
Defendant. )  
\_\_\_\_\_ )

ORDER


THIS MATTER is before the Court on Plaintiff Colony Insurance Company's ("Colony") Motion for Judgment on the Pleadings (Doc. No. 15), pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. Defendant Buckeye Fire Company ("Buckeye") filed its Response in Opposition to Plaintiff's motion (Doc. No. 17), and Plaintiff timely filed its Reply (Doc. No. 18). The motion is now ripe for review.

In its Motion, Colony seeks a declaration by the Court that it has no duty to defend or indemnify Buckeye from the underlying action. "A motion for judgement on the pleadings under Rule 12(c) is assessed under the same standards as a motion to dismiss under Rule 12(b)(6)." Occupy Columbia v. Haley, 738 F.3d 107, 115 (4th Cir. 2013); see also Edwards v. City of Goldsboro, 178 F.3d 231, 243 (4th Cir. 1999). The Court has reviewed the pleadings, arguments in the briefs, and applicable law. In light of Travelers Indemnity Co. v. Miller Building Corp., 221 F. App'x 265 (4h Cir. 2017), as well as other relevant caselaw, the Court finds issuing judgment is inappropriate at this time. 221 F. App'x at 267; see also Auto-Owners Ins. Co. v. Potter, 105 F. App'x 484, 495 (4th Cir. 2004). Upon review by the Court, Plaintiff's Motion (Doc. No. 15) is

DENIED WITHOUT PREJUDICE. Plaintiff is free to raise the issues set forth in the Motion again at summary judgment.

IT IS SO ORDERED.

Signed: June 10, 2020

  
Frank D. Whitney  
United States District Judge